



The Florida Senate

Interim Project Report 2000-23

September 1999

Committee on Comprehensive Planning, Local and Military Affairs

Senator Lisa Carlton, Chairman

OPTIONS FOR MEETING FLORIDA'S PUBLIC SHELTER NEEDS

SUMMARY

- C The Department of Community Affairs (DCA) has identified a general deficit in public shelter space. Furthermore, they report that many of the buildings in the inventory are unsuitable as public hurricane evacuation shelters or have less capacity than the counties report.
- C In the 1999 Legislative Session, DCA supported legislation designed to help reduce the deficit of safe hurricane shelters.
- C It is recommended that the committee support this same legislation in the 2000 session; that unallocated portions from the Florida Hurricane Catastrophe Fund be used to retrofit projects; that s. 252.373(1)(c), F.S., be amended to require the 20 percent of trust fund proceeds currently designated for competitive grants for emergency management purposes be specifically designated for shelter creation and retrofitting; and that DCA convene a summit to develop new strategies for eliminating the state's deficit of safe shelter space.

to survey existing schools, community colleges, universities, and other public buildings, and prepare a list of facilities recommended to be retrofitted using state funds.

The division reports that the survey findings have not been encouraging. The DCA's 1998 Shelter Retrofit Report notes that the state has a shelter demand of 1,278,646, a shelter capacity of 993,552, for a deficit of 285,094 spaces (county estimates). In addition, the report indicates that many of the buildings identified are unsuitable as public hurricane evacuation shelters or have less capacity than the counties report.

DCA conducted site visits to Southwestern Florida to assess whether shelter facilities meet the most recent shelter safety guidelines and to identify new shelter spaces. (See TABLE 1) As a group, only 5 percent of the shelter demand is met. It is important to note that this region of the state has a great need for shelter space because much of the population lives in storm surge areas. Site visits to the remaining counties are currently underway and preliminary figures are available.

BACKGROUND

Florida is frequently confronted with major hurricanes and related storms that impact its citizens and visitors. It is estimated that 80 percent of Florida's population live, and many of its visitors stay, within 10 miles of the coast, which is the area most susceptible to the damaging effects of hurricanes. In the event of a major storm, many of these people will have to evacuate to public shelters. If adequate shelters are unavailable, our citizens and visitors may be exposed to unacceptable safety risks.

In the wake of Hurricane Andrew, the 1993 Legislature declared in s. 252.385(1), F.S., its intent to "not have a deficit of safe public shelter space in any region of the state by 1998 and thereafter." The Division of Emergency Management (division) in DCA was required

TABLE 1
Shelter Space Deficit Of Southwest Florida

County	Est. Shelter Demand	# of "Safe" Spaces	Shelter Deficit
Charlotte	42,020	0	(42,020)
Collier	38,596	290	(38,306)
DeSoto	5,592	2,129	(3,463)
Glades	2,858	738	(2,120)
Hendry	3,989	479	(3,510)
Highlands	20,899	3,474	(17,425)
Lee	95,709	2,379	(93,330)
Sarasota	<u>59,318</u>	<u>4,131</u>	<u>(55,187)</u>
TOTAL	268,981	13,620	(255,361)

Source: DCA, 1999

SHELTER DEFICIT REDUCTION STRATEGIES

As the entity primarily responsible for maintaining a comprehensive statewide program of emergency management, and preparing a statewide emergency management plan, DCA has developed four primary strategies to reduce the state's shelter deficit:

- C Identify and evaluate existing shelters for compliance with national standards;
- C Identify cost-effective retrofit or other mitigation measures on existing buildings that can provide additional shelter capacity;
- C Identify new facilities not currently in local inventories to expand capacity; and
- C Ensure the incorporation of shelter design criteria into new public building construction projects.

Identification and Evaluation of Existing Shelters

Section 252.385(2), F.S., requires, in part, that DCA:

....administer a program to survey existing schools, universities, community colleges, and other state-owned, municipally owned, and county-owned public buildings to identify those that are appropriately designed and located to serve as shelters...

In addition, s. 235.26(9)(b), F.S., requires DCA, semiannually, to :

...prepare and submit a statewide emergency shelter plan to the Governor and the Cabinet for approval. The plan must identify the general location and square footage of existing shelters, by county, and the general location and square footage of needed shelters, by county, in the next 5 years...

Through this survey and the shelter plan, the division has compiled a state emergency shelter inventory.

The Board of Regents of the State University System (SUS) is also mandated, pursuant to s. 240.295(4), F.S., and in consultation with local and state emergency management agencies, to:

...assess existing facilities to identify the extent to which each campus has public shelter space adequate to house those students, faculty, and employees expected to seek public shelter prior to or during a disaster and those other persons for which the campus has agreed with the local emergency

management agency or other voluntary organization to provide shelter space...

DCA's *Statewide Emergency Evaluation Plan* for 1998 notes that the inventory of "safe" shelters is shrinking due, in part, to the implementation of engineering and safety guidelines adopted by the Division of Emergency Management as the Model Hurricane Evacuation Shelter Selection Guidelines. The division's engineering staff and a contract engineering firm conducted 806 surveys on the estimated 3,043 buildings in the identified state inventory. The division concludes that these surveys "have consistently found structural defects and hazardous conditions that may affect their suitability as high wind shelters."

DCA notes that preliminary calculations for the 1999 report indicate that for those counties where shelter studies have included all facilities in existing inventories, and in some cases additional facilities not previously listed, only 3 percent of the listed capacity complied with the guidelines. However, this percentage improves to 38 percent if minor retrofitting, such as installation of window shutters, or other mitigation efforts are taken.

Consequently, many counties that currently indicate shelter capacity "surpluses listed for their shelter inventories, may in reality have severe deficits." The 1998 *Shelter Retrofit Report* also notes "the majority of the buildings which have been surveyed by the division's engineering staff and that are also currently in local shelter inventories, have proven to be difficult to effectively retrofit."

Shelter Retrofitting

Section 252.385(3), F.S., requires that:

(3) Beginning no later than September 1, 1994, the division shall annually provide to the President of the Senate, the Speaker of the House of Representatives, and the Governor a list of facilities recommended to be retrofitted using state funds. State funds should be targeted to counties with shelter deficits. Retrofitting facilities in regions with public shelter deficits shall be given first priority and should be completed by 1998. All appropriate facilities should be retrofitted by 2003.

According to a draft of the 1999 *Shelter Retrofit Report*, the division reviewed a total of 218 project proposals that were submitted by county emergency management agencies in cooperation with local American Red Cross Chapters, School Boards, and other organizations involved in hurricane sheltering activities. After an

analysis of the projects, the division prepared a list of 184 projects for retrofitting that, if funded, it estimates will have a significant impact upon achieving the state's shelter deficit elimination mandate. The total cost of these projects is estimated to be \$17.8 million, and will reduce the shelter deficit by 88,679 spaces.

While DCA has prepared the required *Retrofit Report* and recommendations since 1994, the department notes that none of the recommended retrofit projects have been funded, initiated or completed.

While the Legislature has not directly funded these recommended projects, it has developed a competitive grant program that is available to provide limited funding for shelter retrofitting projects. Since FY 1993/94, the Legislature has imposed an annual \$2 surcharge on every homeowner's, mobile homeowner's, tenant homeowner's, and condominium unit owner's insurance policy and an annual \$4 surcharge on every commercial fire, commercial multiple peril, and business owner's property insurance policy. [s. 252.372, F.S.] Proceeds are deposited in the Emergency Management Preparedness and Assistance Trust Fund, and are used to provide funds for emergency management, preparedness, and assistance.

In FY 1998/99, these surcharges amounted to an estimated \$13.6 million. Twenty percent of the fund proceeds must be made available as competitive grants to state or regional agencies, local governments, and private organizations to implement projects that will further state and local emergency management objectives, which may include retrofitting and equipping shelter space. The remaining 80 percent is allocated to implement and administer state and local emergency management programs and to provide for state relief assistance for nonfederally declared disasters.

These competitive grants are distributed by DCA through the:

- C Emergency Management Competitive Grant Program, with awards capped at \$300,000 per project (Total FY 1998-99 funding available was \$1.2 million); and
- C Municipal Competitive Grant Program, with awards capped at \$50,000 (Total FY 1998/99 funding available was \$1.2 million).

DCA staff report that applications to grants awarded run 10 to 1. DCA estimates that between FY 1993/94 and 1998/99, \$1.1 million in grants were awarded for shelter retrofitting, \$1.5 million for critical facility retrofitting,

and \$.6 million for shelter supplies and funding for shelter studies.

In addition, the FY 1999/00 State Budget contained \$3,265,000 from the Florida Hurricane Catastrophe Fund to be used for a hurricane mitigation and protection plan for public schools designated as hurricane shelters. These funds were designated to provide for reinforcement and upgrade of existing windows to approved FEMA and DCA hurricane barriers. Proviso language stipulated that \$1 million of this appropriation is to be used to upgrade 10 school evacuation sites to American Red Cross standards in Osceola County. However, the Governor vetoed this proviso language, thereby reducing the total appropriation to \$2,265,000.

DCA staff also notes that a new federal program pending before Congress would grant \$20 million nationwide which could be used to retrofit or create public shelters. If enacted into law, Florida could be eligible for an estimated \$1.25 million.

Identification of New Facilities

According to DCA staff, identification of new shelter facilities continues to be a priority. Initially, facilities were identified through the survey mandated in s. 252.385(2), F.S. Since then, DCA staff has verified the information with site visits to 21 counties. In an effort to expand the county inventory, the staff has also inspected buildings not included in the original survey for suitability as public shelters. Staff has reported that this effort has been very successful in some counties.

As a result of their research, department staff found that some public entities were reluctant to designate their facilities as public shelters. The 1998 *Shelter Retrofit Report* notes, as an example, that:

for property protection and security reasons, some local school districts have refused to permit use of buildings other than gymnasiums, cafeterias and other large open areas as shelters. Unfortunately, these types of structures are clearly inappropriate for use during a major hurricane. Further, these are often the oldest buildings on many campuses and are designed and constructed to a lesser standard than modern facilities. Often there are classroom wings on these campuses that with minimal mitigation could meet hurricane shelter selection guidelines.

Incorporating Shelter Design into New Public Buildings

After Hurricane Andrew, the Lewis Commission examined, among other things, the emergency preparedness capabilities of state and local governments. One of the recommendations of the commission was that the Department of Management Services (DMS) evaluate the feasibility and fiscal implications of constructing new state buildings to meet public shelter standards. In response to DMS's evaluation, the Legislature enacted s. 235.26(9), F.S., which requires the Department of Education (DOE), in consultation with county and state emergency management offices, to amend the State Uniform Building Code for Public Educational Facilities Construction to incorporate public shelter design criteria into the Uniform Building Code. These new standards are incorporated into Section 5.4(15) of the State Requirements for Educational Facilities (SREF). The SREF "Public Shelter Design Criteria" became effective as of April 28, 1997, and unless exempted, is a requirement for all new school construction projects (K - 12 and Community Colleges) in counties with an identified deficit of shelter space.

As of August, 1999, DOE reports that 29 schools meeting SREF standards have been constructed, and 59 schools and 7 community college buildings are under construction or in the planning stages. DCA estimates that inclusion of these standards into the building code add from two to five percent to the total construction cost of a new educational facility.

However, not all new public educational facilities are built to SREF standards. Section 235.26(9)(a), F.S., requires new facilities to be built in compliance with SREF unless the facility, or a part of the facility, is exempted:

- C due to its location, size, or other characteristics, as determined by the applicable board with the concurrence of the applicable local emergency management agency or DCA;
- C if the facility is located or proposed to be located in an identified category 1, 2, or 3 evacuation zone (low-lying storm surge evacuation areas); or
- C if there is already an educational facility built to incorporated public shelter criteria within a 3-mile radius of the new facility.

DOE recognizes the need for public shelters and has contracted for the design of a prototype elementary school which can be constructed to house 250 to 500 students. These facilities are being designed as full hurricane shelters pursuant to SREF. The plans for these

schools will be available for use by school districts in 2000.

The statutes impose similar requirements on the state universities for the provision of shelter space for students, faculty, and employees. Section 240.295(4), F.S., requires that:

....Until a campus has sufficient shelter space, any building for which a design contract is entered into subsequent to July 1, 1994, must be constructed in accordance with public shelter standards unless the board, with the concurrence of the local emergency management agency or the Department of Community Affairs, exempts the building or part thereof from shelter standards because of its location, size, or other characteristic.

Use of BOR facilities for the public at large is discretionary, pursuant to an agreement with local emergency management agencies.

PROPOSED LEGISLATION TO REDUCE THE PUBLIC SHELTER DEFICIT

In 1999, DCA supported SB 1932 and HB 2029, legislation designed to help reduce the deficit of safe hurricane shelters. This bill:

- C required SUS facilities to provide public access to shelter space on university campuses to the same extent that school districts and community colleges currently do;
- C required public space leased by the DMS and other state agencies be made available as public shelters; and
- C provided additional tort limitations for facility owners who volunteer their facilities for use as hurricane shelters, thus providing an incentive to private facility owners to volunteer their facilities for use as public shelters, and would reduce their liability exposure.

State University System Facilities

Section 240.295, F.S., required the Board of Regents of the SUS to identify campus facilities suitable for public shelters for their students, faculty, employees, and other persons. The BOR was to make such identifications in consultation with local and state emergency management agencies. Campus buildings for which a design contract has been entered into after July 1, 1994, were to be

constructed according to public shelter standards unless exempted by the BOR.

SB 1932 proposed to amend s. 240.295, F.S., to require the SUS to make its suitable hurricane shelter space available to the general public, and mandated that new campus buildings, as agreed upon by the BOR and the local emergency management agency, be constructed in accordance with public shelter standards unless the host county has sufficient shelter space. The bill also would have amended s. 252.385, F.S., to:

- C include district school boards and community college boards in the list of educational entities responsible for coordinating and implementing the survey of shelters for the state's public education facilities;
- C change the deadline to complete the retrofitting of facilities in regions with public shelter deficits from 1998 to 2003;
- C change the deadline to complete the retrofitting of all recommended facilities from 2003 to 2008; and
- C clarify that owners or lessees of a public hurricane evacuation shelter that is included on the list of facilities recommended for retrofitting are not required to perform any recommended improvements.

State Leased Facilities

Under current law, state leased facilities are not required to be made available as public shelters. The proposed legislation would have amended s. 252.385, F.S., to:

- C require public facilities suitable for use as public hurricane evacuation shelters be available at the request of the local emergency management agencies;
- C require the Department of Management Services (DMS) to incorporate provisions for use of suitable leased space as public hurricane evacuation shelters in its lease agreements.

Shelter Liability

Currently, s. 252.51, F.S., extends a waiver of liability to public or private persons or organizations, owning property, who voluntarily and without compensation allow a local emergency management agency to use their property as an emergency shelter. An action of gross negligence, willful and wanton misconduct by such

persons invalidates the liability waiver. However, the division represents that the concern over liability continues to hamper governmental, private, and volunteer agencies' abilities to staff and manage public shelters. Division staff thinks that clarified and enhanced legal protections are needed to ensure that legal impediments do not diminish Florida's ability to perform emergency functions and provide emergency services.

The proposed legislation would have amended s. 252.385, F.S., to:

- C authorize the division to survey private facilities for inclusion, with the owners' written permission, in the department's list of public hurricane evacuation shelters; and
- C clarify that private owners of a shelter included on the retrofit list are not required to make any of the recommended improvements;

In addition, the bill would have amended s. 252.51, F.S., to clarify and enhance legal protection for governmental, private, and volunteer emergency management workers, to define "emergency management workers," and to maintain that such workers' rights under the Workers' Compensation and pension laws are not affected by these provisions.

METHODOLOGY

Staff reviewed DCA's 1999 *Summary of Emergency Management Capabilities, Statewide Emergency Sheltering Plan*, January 1998 and *Shelter Retrofit Report*, September 1998. Staff interviewed DCA, DOE, and BOR staff. Staff reviewed CS/SB 1932 and HB 2029 from the 1999 Legislative Session.

FINDINGS

- C The Department of Community Affairs (DCA) has identified a general deficit in public shelter space. Furthermore, they report that many of the buildings in the inventory are unsuitable as public hurricane evacuation shelters or have less capacity than the counties report.
- C While s. 252.385(1), F.S., declares the Legislature's intent to eliminate the deficit in safe public shelter space, and DCA has developed strategies to achieve this goal, the state has not achieved its goal of eliminating the deficit. Since FY 1993/94, an

estimated \$5.4 million in state funds have been awarded for shelter retrofitting and related activities.

- C In the 1999 Legislative Session, DCA supported legislation designed to help reduce the deficit of safe hurricane shelters.
- C While DCA has the responsibility for coordinating emergency management statewide, surveying counties to determine shelter needs, and distributing limited state funding for shelter retrofitting, cooperation between local emergency management agencies, school districts, community colleges, and state universities is crucial to eliminating the state's public shelter space deficit.

RECOMMENDATIONS

In the 1999 Legislative Session, DCA supported legislation that would have provided the department with increased ability to reduce the deficit of safe hurricane shelters. The committee should support similar legislation for the 2000 Session and ensure that additional funds be made available to fund retrofit projects recommended by DCA in the 1999 *Shelter Retrofit Report*.

Section 252.373(1)(c), F.S., should be amended to require the 20 percent of trust fund proceeds currently designated for competitive grants for emergency management purposes (estimated \$2.72 million) be specifically designated for shelter creation and retrofitting. If in any year all of the funds have not been awarded, the remaining funds may then be awarded for other local emergency management purposes.

The Legislature should consider awarding available Florida Hurricane Catastrophe Fund moneys for shelter retrofitting. This would include \$2.2 million vetoed in the 1999/00 budget, and \$3 million available in for the 2000/01 budget. The funds could be distributed through the Emergency Management Competitive Grant Program.

In addition, DCA should convene a summit with local emergency management agencies, school districts, community colleges, state universities, and interested persons from the private sector to develop recommendations for eliminating the state's deficit of safe shelter space.

COMMITTEE(S) INVOLVED IN REPORT (*Contact first committee for more information.*)

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Committee on Budget

Committee on Education

MEMBER OVERSIGHT

Senators Clary and Geller